

Co-Chair Senator Tom Courtney
Co-Chair Senator Mary Lundby
Chair Representative Dwayne Alons
Representative Joe Hutter, VC
Representative Vicki Lensing, RM
Senator Michael Connolly
Senator Ron Wieck
Representative Clel Baudler
Representative George Eichhorn
Representative Scott Raecker
Representative Roger Thomas



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10/3/2005

KEN PAULSEN, CPPB
Department of Administrative Services
Capitol Complex
LOCAL MAIL

Re: bidding procedures-service contracts for the inspection of permanently moored Vessels.

Dear Mr. Paulsen:

The Legislative Oversight Committee would really appreciate your review and comment concerning the attached material. At its September meeting the committee reviewed the bid process used by the Department of Natural Resources (DNR) to select an inspection program coordinator as part of permanently moored vessels (PMV) program to inspect casino "riverboats". The successful bidder in the process, Marine Safety Experts, Inc., and the Iowa Gaming association, which represented the interests of the casino boats, were both involved in the creation of the inspection manual adopted by the department and participated in the rulemaking process the department conducted to develop administrative rules for the permanently moored vessels (PMV) program. The low bid on this contract was provided by an Iowa company.

The committee members expressed a number of concerns with the bidding process, these included concerns regarding the selection process, including the Iowa Gaming Association's role, the weighting of the scoring criteria, whether proper consideration of the statutory in-state business bidding preference requirements was given, and the influence in the process of the successful bidder. Committee members agreed to submit a request for an Attorney General's Opinion regarding these issues.

In reviewing the issue it seems that the issues involved in this bidding controversy are not really questions of law so much as they are questions of fact, relating to the fairness of the procedure and the adequacy of the evaluation standards. For that reason the best first step is to seek review and comment by the bidding professionals in Administrative Services. At your convenience, please consider the following questions relating to this bidding process and respond as if the bidding process would have been administered by Administrative Services:

1. What weight should be given to a preference for an Iowa-based company in service contracts?
2. What weight should be given to the low bid in a service contract when all bidders are deemed competent to provide the service?

3. Must a bidding process include an intra-agency appeal process for bidders who are aggrieved or adversely affected? The process established by the DNR does not include an agency appeal; however, judicial review of the process would be available under §17A.19, Iowa Code.
4. May a person who has been a participant in the decision-making process that created a program later bid on the service contract to administer that program?

I've attached some background material that sets out the situation and details the process and the applicable rule. The first is a brief, thumbnail overview of the Oversight meeting discussion; second is the written response to that meeting by the Department of Natural Resources. The remaining material includes the RFP, the DNR evaluation and some supporting documentation.

Your comments on this matter would be of great help to the Oversight Committee. The committee will meet again on October 31, 2005; it would be much appreciated if a response was available by the 26th, to allow time for delivery to committee members. If I can be of any assistance or provide any information, please contact me at 281-3084.

Thank-you for your consideration and efforts.

Respectfully,

Joe Royce

cc:

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Representative Vicki Lensing, RM